

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO (CLEVELAND)**

In Re:

CHARLES L. MOTTON and  
LORNA P. BARRETT-MOTTON,

Debtors.

Chapter 13 Case No. 12-14425-JPS

**JOINT MOTION TO WITHDRAW MOTION TO REOPEN CHAPTER 13 CASE  
AND FOR DECLARATORY RULING REGARDING DISCHARGE**

NOW COME Debtors Charles L. Motton and Lorna P. Barrett-Motton (“Debtors”), and the National Collegiate Master Student Loan Trust I (“NCMSLT”), through their respective counsel, and file this Joint Motion to Withdraw NCMSLT’s Motion to Reopen Chapter 13 Case and for Declaratory Ruling Regarding Discharge (the “Joint Motion”). In support thereof, the parties respectfully state as follows:

1. On or about December 30, 2020, NCMSLT moved to reopen this Chapter 13 case and for declaratory ruling regarding discharge (Dkt. 34) as a result of pleadings Debtor Charles L. Motton filed in ongoing state court litigation asserting, *inter alia*, that a student loan debt incurred prior to his bankruptcy petition in the above numbered and captioned matter was discharged by the order of discharge granted herein on June 30, 2014.

2. On February 18, 2021, the Court heard oral argument on NCMSLT’s motion to reopen, continued the hearing to a later date, and ordered supplemental briefing on a statute of limitations issue raised by Debtors. Rescheduled hearing on the motion to reopen is currently scheduled for April 15, 2021.

3. Contemporaneously with this Joint Motion, Debtor Charles L. Motton has

filed or will file a Notice of Partial Dismissal of Counterclaim in the above-mentioned state court litigation acknowledging and stipulating the student loan debt at issue was not discharged in bankruptcy. Further, Debtors, through undersigned counsel, hereby acknowledge and stipulate unequivocally and irrevocably that the student loan debt at issue—namely, a debt owed to NCMSLT identified under loan number xxxxx6651/001-001000 and the same debt listed under Account No. 3013 on Schedule F of Debtors’ bankruptcy petition as owed to AES Loan Servicing—was not discharged by the order of discharge granted herein on June 30, 2014.

4. As a result of the foregoing stipulations and the agreed filings in concurrent state court litigation, the parties believe NCMSLT’s motion to reopen (Dkt. 34) is now moot, and they wish to withdraw the motion accordingly.

WHEREFORE, Debtors Charles L. Motton and Lorna P. Barrett-Motton and the National Collegiate Master Student Loan Trust I respectfully request this Honorable Court grant their joint motion to withdraw NCMSLT’s Motion to Reopen Chapter 13 Case and for Declaratory Ruling Regarding Discharge (dkt. 34).

Respectfully submitted,

Dated: April 9, 2021

s/ James K. Schultz

James K. Schultz, Esq.  
Sessions, Israel & Shartle, LLC  
141 W. Jackson Blvd., Suite 3550  
Chicago, IL 60604  
Telephone: (619) 296-2018  
E-mail: jschultz@sessions.legal

s/ Ronald I. Frederick

Ronald I. Frederick (0063609)

Michael L. Berler (0085728)

Michael L. Fine (00771313)

Frederick & Berler LLC

767 E. 185th St.

Cleveland, OH 44119

Telephone: (216) 502-1055

E-mail: ronf@clevelandconsumerlaw.com

mikeb@clevelandconsumerlaw.com

michaelf@clevelandconsumerlaw.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on April 9, 2021, a true and correct copy of **Joint Motion to Withdraw Motion to Reopen Bankruptcy** was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Debra E. Booher, on behalf of Charles L. Motton and Lorna P. Barrett-Motton, debtors, at [charlotte@bankruptcyinfo.com](mailto:charlotte@bankruptcyinfo.com)

Craig H. Shopneck, on behalf of Chapter 13 Trustee's office at [ch13shopneck@ch13cleve.com](mailto:ch13shopneck@ch13cleve.com)

Timothy M. Sullivan, on behalf of State of Ohio Department of Taxation, creditor, at [tim@tmslaw.net](mailto:tim@tmslaw.net) and [jkoberg@tmslaw.net](mailto:jkoberg@tmslaw.net)

Ronald I. Frederick, on behalf of Charles L. Motton and Lorna P. Barrett-Motton, debtors, at [ronf@clevelandconsumerlaw.com](mailto:ronf@clevelandconsumerlaw.com)

s/ James K. Schultz

James K. Schultz, Esq.

Sessions, Israel & Shartle, LLC

141 W. Jackson Blvd., Suite 3550

Chicago, IL 60604

Telephone: (619) 296-2018

E-mail: jschultz@sessions.legal